



General Assembly

February Session, 2004

***Raised Bill No. 5045***

LCO No. 45

\*00045\_\_\_\_\_PD\_\*

Referred to Committee on Planning and Development

Introduced by:  
(PD)

***AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1       Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this section  
2       and section 4 of this act, "floodplain" means that area of a municipality  
3       located within the real or theoretical limits of the base flood or base  
4       flood for a critical activity, as determined by the municipality or the  
5       Federal Emergency Management Agency in its flood insurance study  
6       or flood insurance rate map for the municipality prepared pursuant to  
7       the National Flood Insurance Program, 44 CFR Part 59 et seq.
- 8       (b) Whenever a municipality, pursuant to the National Flood  
9       Insurance Program, 44 CFR Part 59 et seq., is required to revise its  
10      zoning regulations or any other ordinances regulating a proposed  
11      building, structure, development or use located in a floodplain, the  
12      revision shall provide for restrictions for flood storage and conveyance  
13      of water for floodplains that are not tidally influenced as follows:
- 14      (1) Within a designated floodplain, encroachments resulting from  
15      fill, new construction or substantial improvements, as defined in 44

16 CFR Part 59.1, involving an increase in footprint to the structure shall  
17 be prohibited unless the applicant provides to the zoning commission  
18 certification by a state licensed engineer that such encroachment shall  
19 not result in any increase in base flood elevation;

20 (2) The water holding capacity of the floodplain shall not be reduced  
21 by any form of development unless such reduction (A) is compensated  
22 for by deepening or widening the floodplain, (B) is on-site, unless  
23 adjacent property owners grant easements or the municipality in  
24 which the development is located authorizes off-site reduction, (C) is  
25 within the same hydraulic reach and a volume not previously used for  
26 flood storage, (D) is hydraulically comparable and incrementally equal  
27 to the theoretical volume of flood water at each elevation, up to and  
28 including the hundred year flood elevation, which would be displaced  
29 by the proposed project, and (E) has an unrestricted hydraulic  
30 connection to the same waterway or water body; and

31 (3) Work within adjacent land subject to flooding, including work to  
32 provide compensatory storage, shall not restrict flows resulting in  
33 increased flood stage or velocity. Any compensatory storage may be  
34 provided off-site if authorized by the municipality.

35 (c) Notwithstanding the provisions of subsection (b) of this section,  
36 a municipality may adopt more stringent restrictions for flood storage  
37 and conveyance of water for floodplains that are not tidally influenced.

38 Sec. 2. Section 16a-27 of the general statutes, as amended by section  
39 10 of public act 03-4 of the June 30 special session, is repealed and the  
40 following is substituted in lieu thereof (*Effective October 1, 2004*):

41 (a) The secretary, after consultation with all appropriate state,  
42 regional and local agencies and other appropriate persons shall prior  
43 to March 1, 2003, complete a revision of the existing plan and enlarge it  
44 to include, but not be limited to, policies relating to transportation,  
45 energy and air. Any revision made after May 15, 1991, shall identify  
46 the major transportation proposals, including proposals for mass

47 transit, contained in the master transportation plan prepared pursuant  
48 to section 13b-15. Any revision made after July 1, 1995, shall take into  
49 consideration the conservation and development of greenways that  
50 have been designated by municipalities and shall recommend that  
51 state agencies coordinate their efforts to support the development of a  
52 state-wide greenways system. The Commissioner of Environmental  
53 Protection shall identify state-owned land for inclusion in the plan as  
54 potential components of a state greenways system.

55 (b) Any revision made after August 20, 2003, shall take into account  
56 (1) economic and community development needs and patterns of  
57 commerce, and (2) linkages of affordable housing objectives and land  
58 use objectives with transportation systems.

59 (c) Any revision made after March 1, 2006, shall (1) take into  
60 consideration risks associated with natural hazards, including, but not  
61 limited to, flooding, high winds and wildfires; (2) identify the potential  
62 impacts of natural hazards on infrastructure and property; and (3)  
63 make recommendations for the siting of future infrastructure and  
64 property development to minimize the use of areas prone to natural  
65 hazards, including, but not limited to, flooding, high winds and  
66 wildfires.

67 ~~[(b)]~~ (d) Thereafter on or before March first in each revision year the  
68 secretary shall complete a revision of the plan of conservation and  
69 development.

70 Sec. 3. Subdivision (4) of subsection (a) of section 7-536 of the  
71 general statutes is repealed and the following is substituted in lieu  
72 thereof (*Effective October 1, 2004*):

73 (4) "Local capital improvement project" means a municipal capital  
74 expenditure project for any of the following purposes: (A) Road  
75 construction, renovation, repair or resurfacing, (B) sidewalk and  
76 pavement improvements, (C) construction, renovation, enlargement or  
77 repair of sewage treatment plants and sanitary or storm, water or

78 sewer lines, including separation of lines, (D) public building  
 79 construction other than schools, including renovation, repair, code  
 80 compliance, energy conservation and fire safety projects, (E)  
 81 construction, renovation, enlargement or repair of dams, bridges and  
 82 flood control projects, (F) construction, renovation, enlargement or  
 83 repair of water treatment or filtration plants and water mains, (G)  
 84 construction, renovation or enlargement of solid waste facilities, (H)  
 85 improvements to public parks, (I) the preparation and revision of local  
 86 capital improvement plans projected for a period of not less than five  
 87 years and so prepared as to show the general description, need and  
 88 estimated cost of each individual capital improvement, (J)  
 89 improvements to emergency communications systems, (K) public  
 90 housing projects, including renovations and improvements and energy  
 91 conservation and the development of additional housing, (L)  
 92 renovations to or construction of veterans' memorial monuments, (M)  
 93 thermal imaging systems, (N) bulky waste and landfill projects, (O) the  
 94 preparation and revision of municipal plans of conservation and  
 95 development adopted pursuant to section 8-23, provided such plans  
 96 are endorsed by the legislative body of the municipality not more than  
 97 one hundred eighty days after adoption by the commission, [and] (P)  
 98 acquisition of automatic external defibrillators, and (Q) floodplain  
 99 management and hazard mitigation activities. "Local capital  
 100 improvement project" means only capital expenditures and includes  
 101 repairs incident to reconstruction and renovation but does not include  
 102 ordinary repairs and maintenance of an ongoing nature and  
 103 "floodplain management" and "hazard mitigation" shall have the same  
 104 meaning as in section 8 of this act.

105 Sec. 4. (NEW) (*Effective October 1, 2004*) The Commissioner of  
 106 Environmental Protection shall develop guidelines to be used by  
 107 municipalities in revising ordinances restricting flood storage and  
 108 conveyance of water for floodplains, as defined in section 1 of this act,  
 109 that are not tidally influenced. Such guidelines shall include, but not be  
 110 limited to, a model ordinance that may be used by municipalities to  
 111 comply with the provisions of section 1 of this act. The commissioner

112 shall make the guidelines available to the public.

113 Sec. 5. Subsection (d) of section 20-327b of the general statutes, as  
114 amended by section 146 of public act 03-6 of the June 30 special  
115 session, is repealed and the following is substituted in lieu thereof  
116 (*Effective October 1, 2004*):

117 (d) (1) The Commissioner of Agriculture and Consumer Protection,  
118 shall, by regulations adopted in accordance with the provisions of  
119 chapter 54, prescribe the form of the written residential disclosure  
120 report required by this section and sections 20-327c to 20-327e,  
121 inclusive. The regulations shall provide that the form include  
122 information concerning municipal assessments, including, but not  
123 limited to, sewer or water charges applicable to the property. Such  
124 information shall include: (i) Whether such assessment is in effect and  
125 the amount of the assessment; (ii) whether there is an assessment on  
126 the property that has not been paid, and if so, the amount of the  
127 unpaid assessment; and (iii) to the extent of the seller's knowledge,  
128 whether there is reason to believe that the municipality may impose an  
129 assessment in the future.

130 (2) Such form of the written residential disclosure report shall  
131 contain the following:

132 (A) A certification by the seller in the following form:

133 "To the extent of the seller's knowledge as a property owner, the  
134 seller acknowledges that the information contained above is true and  
135 accurate for those areas of the property listed. In the event a real estate  
136 broker or salesperson is utilized, the seller authorizes the brokers or  
137 salespersons to provide the above information to prospective buyers,  
138 selling agents or buyers' agents.

T1 .... (Date)

.... (Seller)



161 radon, subsurface sewage disposal, flood hazards and such other  
162 topics as the Commissioner of Consumer Protection may determine  
163 would be of interest to a buyer.

164 (G) A statement that information concerning the residence address  
165 of a person convicted of a crime may be available from law  
166 enforcement agencies or the Department of Public Safety and that the  
167 Department of Public Safety maintains a site on the Internet listing  
168 information about the residence address of persons required to register  
169 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

170 Sec. 6. Subsection (a) of section 22a-27j of the general statutes, as  
171 amended by section 108 of public act 03-6 of the June 30 special  
172 session, is repealed and the following is substituted in lieu thereof  
173 (*Effective July 1, 2004*):

174 (a) Any person, firm or corporation, other than a municipality,  
175 making an application for any approval required by chapters 124, 126,  
176 440 and 444 shall pay a fee of twenty dollars, in addition to any other  
177 fee which may be required, to the municipal agency or legislative body  
178 which is authorized to approve the application. On and after July 1,  
179 2004, the fee shall be thirty-two dollars. Such municipal agency or  
180 legislative body shall collect such fees, retaining [one dollar] two  
181 dollars of such fee for administrative costs, and shall pay the  
182 remainder of such fees quarterly to the Department of Environmental  
183 Protection and the receipts shall be deposited into an account of the  
184 State Treasurer and credited to the Environmental Quality Fund  
185 established pursuant to section 22a-27g. The portion of such fund  
186 attributable to the fees established by this section shall be used by the  
187 Department of Environmental Protection as follows: (1) Two-thirds  
188 shall be used for the purpose of funding the environmental review  
189 teams program of the Bureau of Water Management within said  
190 department, the Council on Soil and Water Conservation established  
191 pursuant to section 22a-315 and the eight county soil and water  
192 conservation districts, and (2) one-third shall be deposited into the

193 hazard mitigation and floodplain management account established  
194 pursuant to section 7 of this act and used for grants under section 9 of  
195 this act.

196       Sec. 7. (NEW) (*Effective July 1, 2004*) There is established an account  
197 to be known as the "hazard mitigation and floodplain management  
198 account". The hazard mitigation and floodplain management account  
199 shall be an account of the Environmental Quality Fund established  
200 under section 22a-27g of the general statutes. Notwithstanding any  
201 provision of the general statutes, any moneys required by law to be  
202 deposited in the account shall be deposited in the Environmental  
203 Quality Fund and credited to the hazard mitigation and floodplain  
204 management account. Any balance remaining in the account at the end  
205 of any fiscal year shall be carried forward in the account for the fiscal  
206 year next succeeding. The account shall be available to the  
207 Commissioner of Environmental Protection for the purposes of  
208 sections 8 to 12, inclusive, of this act.

209       Sec. 8. (NEW) (*Effective July 1, 2004*) As used in sections 9 to 12,  
210 inclusive, of this act:

211       (1) "Eligible applicant" means any municipality, regional planning  
212 agency organized under the provisions of chapter 127 of the general  
213 statutes, any regional council of elected officials organized under the  
214 provisions of chapter 50 of the general statutes, or any regional council  
215 of government organized under the provisions of sections 4-124i to 4-  
216 124p, inclusive, of the general statutes;

217       (2) "Hazard mitigation" means activities that include, but are not  
218 limited to, actions taken to reduce or eliminate long-term risk to  
219 human life, infrastructure and property resulting from natural hazards  
220 including, but not limited to, flooding, high winds and wildfires; and

221       (3) "Floodplain management" means activities that include, but are  
222 not limited to, actions taken to retain the existing capacity of  
223 designated floodplain areas to store and convey flood waters.



224       Sec. 9. (NEW) (*Effective July 1, 2004*) (a) The Commissioner of  
225       Environmental Protection shall establish and administer a hazard  
226       mitigation and floodplain management grant program to reimburse  
227       eligible applicants for costs incurred in the reduction or elimination of  
228       long-term risks to human life, infrastructure and property from natural  
229       hazards, including, but not limited to, flooding, high winds and  
230       wildfires, and in the retention of present capacity of designated  
231       floodplain areas to store and convey flood waters. Each grant shall be  
232       in an amount equal to ninety per cent of the costs to be incurred for  
233       such activities. Application for a grant shall be made in writing to the  
234       commissioner in such form as the commissioner may prescribe and  
235       shall include a description of the purpose, objectives and budget of the  
236       activities to be funded by the grant. If the applicant is a municipality,  
237       the chief executive officer of the municipality applying for the grant  
238       may designate the town planner, director of public works, police chief,  
239       fire chief or emergency management director as the agent to make the  
240       application.

241       (b) The Commissioner of Environmental Protection shall establish,  
242       by regulations adopted in accordance with chapter 54 of the general  
243       statutes, relative priorities for the approval of grants under this section.  
244       Such priorities may take into account the differing needs of eligible  
245       applicants, the need for consistency and equity in the distribution of  
246       grant awards and the extent to which particular projects may advance  
247       the purposes of this section. The commissioner shall accord highest  
248       priority to projects which involve (1) the preparation or revision of  
249       hazard mitigation plans by municipalities, or (2) participation in the  
250       community rating system of the National Flood Insurance Program.  
251       The commissioner shall accord secondary priority to projects which  
252       involve (A) the execution of hazard mitigation projects by  
253       municipalities in accordance with approved hazard mitigation plans;  
254       or (B) administering and providing financial assistance for the hazard  
255       mitigation and floodplain management grant program established  
256       under this section. The commissioner may establish further criteria for  
257       the approval of grants under this section. Not later than February 1,

258 2004, the commissioner shall develop and disseminate a pamphlet that  
259 describes the evaluation process for grant applications under this  
260 section. In awarding grants under this section, the commissioner shall  
261 consult with any person the commissioner deems necessary.

262 (c) The commissioner shall authorize grant awards under this  
263 section on or before July thirty-first and December thirty-first of each  
264 fiscal year in which payment of a grant is to be made.

265 (d) The commissioner shall allocate not less than sixty per cent of  
266 the moneys in the hazard mitigation and floodplain management  
267 account in any fiscal year for grants under this section.

268 Sec. 10. (NEW) (*Effective October 1, 2004*) (a) On and after July 1,  
269 2005, the Commissioner of Environmental Protection shall make grants  
270 to municipalities under section 9 of this act, from funds in the hazard  
271 mitigation and floodplain management account, established under  
272 section 7 of this act.

273 (b) If the commissioner finds that any grant awarded pursuant to  
274 this section is being used for other purposes or to supplant a previous  
275 source of funds, the commissioner may require repayment.

276 Sec. 11. (NEW) (*Effective July 1, 2004*) (a) Recipients of grants under  
277 section 9 of this act shall submit a report to the Commissioner of  
278 Environmental Protection, in such form as the commissioner  
279 prescribes, not later than September first of the fiscal year following  
280 the fiscal year such grant was received. Such report shall contain a  
281 description of activities paid for with financial assistance under the  
282 grant. The chief executive officer of a municipality that receives a grant  
283 may designate the town planner, director of public works, police chief,  
284 fire chief or emergency management director of that municipality as  
285 the agent to make such report.

286 (b) On or before January 1, 2007, and annually thereafter, the  
287 Commissioner of Environmental Protection shall prepare a report on

288 grants made under section 9 of this act for the preceding fiscal year.  
289 Each such report shall include: (1) A description of the grants made,  
290 including the amount, purposes and the municipalities to which they  
291 were made; and (2) any findings or recommendations concerning the  
292 operation and effectiveness of the grant program.

293 Sec. 12. (NEW) (*Effective July 1, 2004*) The Commissioner of  
294 Environmental Protection shall adopt regulations, in accordance with  
295 the provisions of chapter 54 of the general statutes, to implement the  
296 provisions of sections 8 to 11, inclusive, of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>July 1, 2004</i>
Sec. 12	<i>July 1, 2004</i>

***Statement of Purpose:***

To establish a comprehensive program for managing floodplains and reducing potential hazards.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*